

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 14. Conformity

Subchapter B. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved Under Title 23 U.S.C. or the Federal Transit Act
Laws

§1431. Purpose

The purpose of this regulation is to implement section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 et seq.), the related requirements of 23 U.S.C. 109(j), and regulations under 40 ~~CFR part 51, subpart F~~ Code of Federal Regulations (CFR) part 93, subpart A with respect to the conformity of transportation plans, programs, and projects ~~which~~ that are developed, funded, or approved by the United States Department of Transportation (DOT) and by metropolitan planning organizations (MPOs) or other recipients of funds under title 23 U.S.C. or the Federal Transit Act Laws (49 U.S.C. ~~1601 et seq.~~ Chapter 53). This regulation sets forth policy, criteria, and procedures for demonstrating and ~~ensuring~~ ensuring conformity of such activities to applicable implementation plans developed according to section 110 and part D of the CAA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:**

§144134. Consultation

A. Pursuant to 40 CFR ~~51.402~~ 93.105 interagency consultation (federal, state, and local) shall be undertaken before making conformity determinations and before adopting applicable State Implementation Plan (SIP) revisions.

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[See Prior Text in B]

1. Representatives of the MPOs, DEQ, and the state and local transportation agencies shall collectively undertake an interagency consultation process in accordance with this Section with local or regional representatives of EPA, FHWA, and FTA on the development of the applicable implementation plan, the list of TCMs in the applicable implementation plan, the unified planning work program under title 23 CFR section 450.314, the transportation plan (TP), the TIP, any revisions to the preceding documents, and associated conformity determinations required by this regulation.

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[See Prior Text in B.2-B.6.c]

d. ~~DOTD—chief, Engineering Design and Contract Management Division~~
or designee,

e. FHWA—division administrator or designee,

fe. FTA—director, Office of Program Development or designee,

gf. EPA—regional administrator or designee, and

hg. local publicly-owned transit agencies—general manager or designee.

7. ~~Before adoption and approval of conformity analyses prepared for plans,~~
Transportation Improvement Plans (TIPs), and projects, the Metropolitan Planning Organization
(MPO) and/or Department of Transportation and Development (DOTD) shall distribute ~~the~~ a final
draft of the documents (TPs, TIPs, and related materials), before adoption and approval, including
supporting technical materials, to the consulting agencies for review and comments. Lead
agencies shall respond to significant comments of made by the consulting agencies on TPs plans,
TIPs, projects, or SIPs in writing within 30 working days. These replies Comments and responses
to comments shall be distributed to for review by all agencies identified in Subsection B.2 of this
Section. All comments and the replies to those comments shall be included with final documents
when they are forwarded for review subject to the provisions of LAC 33:III.1441.D. Following
resolution of all significant issues, final documents shall be revised accordingly and submitted to
the designated lead agency for formal adoption and approval.

8. Meetings of the group of agencies as a whole (as found in Subsection B.6 of
this Section) shall convene for the specific purpose of considering issues with regard to the
conformity of TPs, TIPs, and projects with the transportation conformity SIP. The frequency of
these meetings shall be determined jointly by the specified transportation and air quality lead
agencies. Agencies shall meet on a regular basis, at least quarterly, unless the lead agencies
decide there is a need for an earlier meeting or, alternatively, that there is no need for the regularly
scheduled meeting. If the comments and issues on draft documents are substantial and warrant a
group meeting, the lead agency may schedule a meeting where consultation with all agencies
concerned can be accomplished simultaneously for the resolution of comments and
issues. Meeting agendas are the responsibility of the designated lead agency.

9. Where TCMs are ~~required by federal statute into~~ be included in applicable SIPs
in urbanized nonattainment or maintenance areas, a list of TCMs shall be selected and developed
by the MPO in cooperation with other agencies specified in Subsection B.2. This list of TCMs
shall be distributed to all cooperating agencies by DEQ after its review and consultation with the
MPO. The list of TCMs shall be made available for inspection or copying for all interested
persons and agencies.

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[See Prior Text in C]

1. An interagency consultation process in accordance with Subsection B of this
Section involving the MPO, state and local air quality and transportation agencies, EPA, and

DOT shall be undertaken for the following:

[See Prior Text in C.1.a]

b. for purposes of regional emissions analysis, the MPO shall actively consult with the agencies in Subsection B.2 to determine which minor arterials and other transportation projects should be considered regionally significant projects (in addition to those functionally classified as principal arterial or higher or fixed guideway systems or extensions that offer an alternative to regional highway travel) and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP. The MPO shall consider the views of each agency that comments or responds in writing prior to any final action on these issues. If the MPO receives no comments within 30 days, the MPO may assume consensus by the agencies specified in Subsection B.2.;

c. the MPO shall submit a list of exempt projects to agencies specified in Subsection B.2 of this Section to evaluate whether projects otherwise exempted from meeting the requirements of this Subchapter 40 CFR part 93, subpart A (see LAC 33:III.1497 sections 93.126 and 93.127, as incorporated by reference in LAC 33:III.1432) should be treated as nonexempt in cases where potential adverse emissions impacts may exist for any reason. The MPO shall allow 30 days for comments;

d. the MPO and/or DOTD, in cooperation consultation with DEQ the agencies in Subsection B.2 of this Section, shall make a determination, as required by LAC 33:III.1457.C.1 40 CFR 93.113(c)(1) (as incorporated by reference in LAC 33:III.1432), whether past obstacles to implementation of TCMs which that are behind the schedule established in the applicable implementation plan have been identified and are being overcome and whether state and local agencies with influence over approvals or funding for TCMs are giving highest priority to approval or funding for TCMs. This process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures;

e. the MPO and/or DOTD, in cooperation consultation with DEQ the agencies in Subsection B.2 of this Section, shall identify, as required by LAC 33:III.1493.D 40 CFR 93.123(b) (as incorporated by reference in LAC 33:III.1432), projects located at sites in PM₁₀ nonattainment areas which that have vehicle and roadway emission and dispersion characteristics which that are essentially identical to those at sites which have violations verified by monitoring and, therefore, require quantitative PM₁₀ hot-spot analysis;

f. the MPO shall notify the agencies specified in Subsection B.2 of this Section of transportation plan or TIP revisions; or amendments which merely add or delete exempt projects listed in LAC 33:III.1497 40 CFR 93.126 or 93.127 (as incorporated by reference in LAC 33:III.1432) and allow a 30-day comment period; and

g. DOTD, in consultation with applicable the agencies specified in Subsection B.2 of this Section, shall cooperatively choose the appropriate conformity test(s) and methodologies for use in isolated rural nonattainment and maintenance areas, as required by 40

CFR 93.109(g)(2)(iii).

2. An interagency consultation process in accordance with Subsection B of this Section involving the MPO, and state and local air quality and transportation agencies shall be undertaken for the following:

a. DEQ, in cooperation with the MPO and DOTD, shall evaluate events ~~which~~that will trigger new conformity determinations in addition to those triggering events established in ~~LAC 33:III.1439~~40 CFR 93.104 (as incorporated by reference in LAC 33:III.1432). DEQ may require a new conformity determination in the event of any unforeseen circumstances; and

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[See Prior Text in C.2.b-C.3]

4. The MPO, in accordance with Subsection B of this Section; and with the cooperation of DOTD and local transportation agencies; and recipients of funds designated under title 23 U.S.C. or the Federal Transit ~~Act~~Laws, shall coordinate and ensure that plans for construction of regionally significant projects ~~which~~that are not FHWA/FTA projects including projects for which alternate locations, design concept and scope, or the no-build option are still being considered, as well as all those by recipients of funds designated under title 23 U.S.C. or the Federal Transit ~~Act~~Laws, are disclosed to the MPO on a regular basis and ensure that any changes to those plans are immediately disclosed. The sponsors of non-FHWA/FTA projects and recipients of funds designated under title 23 U.S.C. or the Federal Transit ~~Act~~Laws shall disclose to the MPO on a regular basis significant projects and their status.

5. The MPO, in accordance with Subsections B and C.4 of this Section, and other recipients of funds designated under title 23 U.S.C. or the Federal Transit ~~Act~~Laws, shall cooperatively assume the location and design concept and scope of projects ~~which~~that are disclosed to the MPO as required by Subsection C.4 of this Section, but whose sponsors have not yet decided these features; in sufficient detail to perform the regional emissions analysis according to the requirements of ~~LAC 33:III.1491~~40 CFR 93.122 (as incorporated by reference in LAC 33:III.1432).

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[See Prior Text in C.6]

7. Within 15 days subsequent to approval and adoption of final documents, including TPs, TIPs, conformity approvals and related documents, applicable implementation plans and implementation plan revisions, the lead agency; that is, either DEQ, the MPO, or DOTD, shall provide copies of such documents and supporting information to all agencies specified in Subsection B.2 of this Section.

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[See Prior Text in D-D.1]

2. In the event that the MPO or DOTD determines that every effort has been

made to address DEQ concerns and no further progress is possible, the MPO ~~and/or~~ DOTD shall notify the secretary of DEQ in writing to this effect. This Section of the regulation shall be cited by the MPO or DOTD in any notification of a conflict which may require action by the governor.

[See Prior Text in D.3-D.4]

E. Public Consultation Procedures. ~~A~~Consistent with the requirements of 23 CFR 450.316(b), relating to public involvement, affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process ~~which that~~ provides opportunity for public review and comment ~~prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with the requirements of 23 CFR part 450.~~ This process shall, at a minimum, provide reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and before taking formal action on conformity determinations for all TPs and TIPs. Any charges imposed for public inspection and copying of conformity-related materials shall be consistent with the fee schedule contained in 49 CFR 7.95. In addition, any such agency must specifically address in writing ~~all any~~ public comments claiming that known plans for a regionally significant project ~~which that~~ is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. Any such agency shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), repromulgated LR 24:1280 (July 1998), amended LR 24:**